

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KENNETH THOMAS, JR.,

Plaintiff,

Case No. C19-1766-JCC-MLP

V.

## ORDER

## CORRECTIONS OFFICER HOPF, *et al.*,

## Defendants.

This is a 42 U.S.C. § 1983 prisoner civil rights action. On April 9, 2021, Plaintiff  
Thomas Jr. (“Plaintiff”) filed a “Motion to Reconsider Appointment of Counsel and a  
Motion to Appoint an Independent Expert” and a “Motion for Defendants to Provide Discovery  
XYZ Rule” as a single filing (“Plaintiff’s Motions”). (Dkt. # 62.) Plaintiff’s Motions  
request: (1) that the Court reconsider appointing Plaintiff counsel in this matter; (2) that the  
Court appoint an independent expert based off Plaintiff’s neck, back, and knee issues; and (3)  
that Defendant Hopf be compelled to produce any disciplinary actions from supervisors,  
and any other major misconduct reports since his employment in 2015.

1 under “Rule XYZ.”<sup>1</sup> (*Id.* at 1.) Plaintiff’s Motions did not provide any substantive argument  
2 addressing his requests but noted that he has contacted over 30 attorneys and had “no luck”  
3 finding representation. (*See id.*) On April 23, 2021, Defendant filed a response requesting that  
4 the Court deny Plaintiff’s Motions. (Dkt. # 70.)

5 Under Local Rule 7(h)(1), motions for reconsideration are disfavored in this district. Such  
6 motions will be granted only upon a “showing of manifest error in the prior ruling” or “new facts  
7 or legal authority which could not have been brought to [the Court’s] attention earlier without  
8 reasonable diligence.” LCR 7(h)(1). The motion shall be filed within 14 days after the order to  
9 which it relates is filed and noted for consideration the day it is filed. LCR 7(h)(2).

10 On October 21, 2020, the Court denied Plaintiff’s initial motion for appointment of  
11 counsel because the complexity of the legal issues presented in this case, and Plaintiff’s ability to  
12 articulate his claims, did not constitute exceptional circumstances to justify appointment of  
13 counsel. (Dkt. # 41 at 10.) The Court noted that Plaintiff was free to move for appointment of  
14 counsel, if necessary, at a later date. (*Id.*) Here, Plaintiff failed to file his motion to reconsider  
15 within 14 days of the Court’s determination on his appointment of counsel. *See LCR 7(h)(2).*  
16 Nevertheless, the Court continues to find that exceptional circumstances do not exist in this  
17 matter to justify appointment of counsel at this time. *See Wilborn v. Escalderon*, 789 F.2d 1328,  
18 1331 (9th Cir. 1986) (“A finding of exceptional circumstances requires an evaluation of both the  
19 likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in  
20 light of the complexity of the legal issues involved.”). As such, Plaintiff additionally fails to  
21 demonstrate “manifest error” or provide new facts or legal authority as required to grant  
22 Plaintiff’s motion for appointment of counsel under LCR 7(h)(1).

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23 <sup>1</sup> Plaintiff’s Motions fails to articulate or explain “Rule XYZ” or why he is seeking discovery from  
Defendant on that basis. (*See dkt. # 62 at 2.*)

1 Furthermore, Plaintiff's request to appoint an independent expert based on his medical  
2 issues, and request for discovery from Defendant, both failed to submit any argument or reasons  
3 addressing either request. (*See* dkt. # 62.) 28 U.S.C. § 1915, "does not authorize federal courts to  
4 appoint or authorize payment for expert witnesses for prisoners or other indigent litigants."

5 *Patton v. Loadholt*, 445 F.Supp.3d 802, 803 (E.D. Cal. 2020) (citations and internal quotations  
6 omitted). The Court additionally notes Plaintiff's discovery motion was filed after the renewed  
7 discovery deadline in this matter expired on April 5, 2021 (dkt. # 48) without a request for an  
8 extension, and Defendants have since submitted a motion for summary judgment (dkt. # 65).

9 Accordingly, Plaintiff's Motions (dkt. # 62) are DENIED. The Clerk is directed to send  
10 copies of this Order to the parties and to Judge Coughenour.

12 Dated this 28th day of April, 2021.

13   
14 MICHELLE L. PETERSON  
15 United States Magistrate Judge